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December 8, 1994

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**EX PARTE SUBMISSION**

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Ex Parte Presentation in PR Docket 93-61

Dear Mr. Secretary:

This letter will advise the Commission that on December 8, 1994, the undersigned and Washington Gas Vice President Ronald King met with Commissioner Susan Ness and her assistant, David Siddell, in a panel discussion with other interested parties to discuss the issues being addressed in the above referenced docket.

A copy of a written statement, which was submitted to the Commissioner and Mr. Siddell, is attached.

On behalf of Washington Gas and other natural gas distribution utilities, this will also serve to followup on three interrelated issues discussed at the meeting: the employment of so-called incidental interconnected voice messaging; the supposed difficulty of multilateration systems to operate in a higher band; and the request that the Commission grandfather unbuilt licenses for hundreds of unbuilt multilateration systems.

Washington Gas and the other Gas Utilities view the multilateration proponents' position on these issues, with the exception of Southwestern Bell, as essentially asking the Commission award them free hundreds of licenses for what in fact will be PCS systems operating in the 900 MHz band. This is a far more extensive giveaway than that of which the Commission was accused in connection with the recent PCS Pioneer's Preference proceeding. As discussed below, there is no public interest need to crowd out the existing millions of Part 15 devices in this band

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to make a multi-billion dollar gift to the multilateration proponents.

## I. The multilateration proponents are seeking PCS licenses in the guise of performing vehicle monitoring services.

Throughout this proceeding, the Gas Utilities have been puzzled by the sheer amount of spectrum the multilateration proponents have sought, blocks of from six to ten megahertz of frequency. Southwestern Bell, on the other hand, has consistently argued that it could accomplish all the vehicle location functions proposed by the other multilateration proponents using only two megahertz of spectrum.

During the course of the panel discussion yesterday, it became clear why the multilateration proponents have sought such large blocks of spectrum. In the words of one of the multilateration companies, "If our customers cannot make phone calls, they will not buy the service." This candid, but startling admission reveals their ultimate purpose in seeking large blocks of spectrum is not primarily to offer vehicle location services, but instead to become an additional class of cellular/PCS carriers. This is simply not the reason the Commission allocated spectrum for vehicle monitoring and it represents a radical departure from what had generally been the concept of vehicle location service.

In the Gas Utilities' view, any potential, but as yet undetermined public interest benefits of allowing an extra two or three commercial mobile phone services in the 900 MHz band, in light of the two cellular carriers, six PCS carriers, one or two enhanced Specialized Mobile Radio carriers and a variety of conventional two-way carriers all offering this service, would not justify the wholesale dislocation of the millions of existing and planned Part 15 devices in the 902-928 MHz band.

This docket contains substantial support for the proposition that the availability of vehicle location services is in the public interest, for example, as an aid to law enforcement and fleet management. By contrast, the record is entirely devoid of any evidence that the offering of another interconnected mobile telephone service by multilateration companies would serve the public interest, convenience and necessity. Indeed, the record affirmatively supports the conclusion that the offering of such service at the cost of the efficiency and viability of Part 15 equipment would be contrary to the public interest.

Southwestern Bell, an established and experienced provider of mobile service whose technical expertise is beyond challenge, has shown that multilateration can be accomplished using two megahertz of spectrum or less. If that is so, the Commission could make a modest allocation of a total of six megahertz of 902-928 MHz spectrum to allow three competing systems without seriously

jeopardizing the use of this band by Part 15 devices. Such an allocation is far more compatible with the concept of a shared band than the allocation of some 14 MHz of the band for wide-area mobile telephone service. The Commission should follow that course.

## II. It would not be difficult technically, nor economically, for the Commissions to move the multilateration systems to another band.

A second issue which arose during the course of the panel discussion was whether either the multilateration systems or Part 15 devices could operate in another band at a higher frequency, for example, the 2 GHz band. The multilateration systems assert that moving their systems into another band would not be cost effective because the distance between their transmitters would have to be reduced from an average of seven to two miles.

The Gas Utilities disagree with the multilateration companies' technical analysis. Although the 2 GHz band requires a higher degree of line of sight than 900 Mhz, this is primarily a factor when building penetration is important. Unlike Part 15 devices, which will predominately be used inside buildings, the vehicles which will employ multilateration systems will be located on streets and highways. Thus, if line of sight consideration is an issue in this proceeding, then the laws of physics demonstrate that Part 15 users, not multilateration systems, would be more adversely affected.

The multilateration proponents also overstate the difference in propagation of 2 GHz and 900 MHz, this was overstated by the multilateration proponents. A 900 MHz transmitter operating at 500 watts from a 200 foot tower should be able to place a signal of 32 dBu or greater over an approximate 18 mile radius. At 2.4 GHz that signal will propagate approximately 13.5 miles. This is a reduction on the order of 25-30 percent, not of 75 percent, as asserted by the multilateration proponents. Moreover, if the multilateration systems are moved to clean spectrum, they will likely suffer a lesser degree of RF noise than would to be present in the 900 MHz band. Thus, what is suffered in signal propagation loss by moving the multilateration systems to another band is likely to be compensated for in improved receiver sensitivity.

In terms of economic dislocation, it is unquestionably less difficult to move the multilateration systems than millions of Part 15 devices. As the multilateration proponents admitted, there are but six commercial systems in operation, with a mere 43,000 units claimed to operate. Grandfathering those systems for some period of time in the 902-928 band and issuing new licenses in another band is clearly manageable. Expecting millions of Part 15 devices to move out of the band when they have no other technically comparable band in which to relocate, is not realistic. Taking

action which will result in degradation of the service provided by these devices is not in the public interest.

**III. No reason exists to grandfather hundreds of unbuilt licenses for multilateration systems and except them from auctions.**

The record in this proceeding shows that while hundreds of licenses have been issued for multilateration systems, a mere handful have been constructed. Apparently only six Airtouch Teletrac systems are in commercial operation. It appears the multilateration proponents seek the Commission to grandfather the award of their hundreds of unbuilt stations. Given their plans to offer interconnected telephone service on these systems, the value of the licenses they seek grandfathered could approach billions of dollars.

Although the Gas Utilities are sympathetic where companies have actually constructed a facility and placed it in commercial operation, the request for a gift of some 300 PCS type licenses to the multilateration proponents would be fiscally irresponsible and sure to bring the wrath of Congress upon the Commission. The Commission should grandfather only those systems which are in commercial operation on the date of the adoption of final rules in this proceeding.

In accordance with FCC Rule Section 1.1206(a)(2), an original and two copies of this notice are being filed. Should any question arise concerning this matter, kindly contact this office.

Very truly yours,

George L. Lyon, Jr.

GLL/pc
Attachment
cc: Chairman Reed E. Hundt
Commissioner Andrew C. Barrett
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Commissioner James H. Quello
Ruth Milkman
Rudolfo M. Baca
David R. Siddall
Jill M. Luckett
James R. Coltharp
Ralph A. Haller
F. Ronald Netro
Rosalind K. Allen
Gerald P. Vaughan
Martin D. Liebman
Bruce A. Franca
Richard B. Engelman

**Statement on behalf of Washington Gas and the Ad Hoc Gas Distribution Utilities Coalition**

Even the Commission has come to realize that it made a mistake when it encouraged the development of low power Part 15 technology in a band where it had authorized relatively high power Location and Monitoring Service operations. The issue here is whether you are going to compound that mistake with a short term solution, or whether you will approach the problem using a zero based analysis which does not assume that yesterday's mistakes are today's given.

Washington Gas is in a unique position in this proceeding. It is not seeking the Commission's help to fashion rules to help it sell a communications service for profit. Instead, Washington Gas and its brethren electric and water utilities, and their millions of residential and business customers, are asking the Commission not to obsolete the existing proven communications systems they are now using and which they wish to expand to facilitate affordable utility service,[1] accurate billing, and most importantly of all, employee and customer safety when meter readers must go into a residence to obtain a reading.

This docket is replete with claims that Part 15 users should not be heard to complain of their lowly status since AVM has been allocated in the 902-928 band since 1974, and that spread spectrum Part 15 devices have been in this band only a fraction of that time. Claims of the large investment the multilatertion proponents have made have also been advanced to support their equities to this band. Yet, despite the length of time these companies have had to develop their systems, barely a handful of multilateration systems are operational, with paying customers numbering only in the 1,000's. We do not disparage that these companies do and will serve the public interest.

But, if the determining factor is sunk cost, you should be aware that the record demonstrates that the equities preponderate on the side of Part 15. You have in the record of this proceeding evidence from just 45 utilities surveyed. It shows they have installed some 2.2 million Part 15 automatic meter reading ("AMR") devices at an investment of $184 million. That is only a fraction of the set of AMR devices. Indeed, Itron, which makes the device Washington Gas is installing this very minute in homes and businesses throughout the Washington area, reports more than 3 million devices sold to date. Moreover, those 45 utilities I just mentioned plan to install some 15.6 million AMR devices at an investment of almost $1 billion. Washington Gas has installed more than 250,000 AMRs (63,000 in Maryland) at an investment of

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[1] Washington Gas's experience is that AMR allows an operating savings of more than 80 percent from the manual cost of meter reading.

$20,000,000. It ultimately expects to install more than 400,000 AMRs for a total investment of $32,000,000. A good deal of that investment, and the jobs it will create depend on your decision here. And that is just one class of Part 15 spread spectrum device.

Interference is our obvious concern. It is plainly evident that an expanding group of low powered devices cannot share spectrum with a growing group of high power systems. The staff, to its credit, has attempted to be responsive to our concerns by drafting this Item to prohibit wide-band forward links and the operation of multilateration systems in the part of the band 910 to 920 MHz in which the Itron device, used by many gas companies, operates, and by segregating narrow band high power links at the top of the band. This is only a short term solution, however, because of spectrum crowding.

Indeed, the Item, as it is being drafted, mistakenly increases the amount of spectrum allocated to multilateration from the August staff proposal, apparently, in part, for revenue generating purposes. The result, over the medium to long term will be to strangle the ability of the utilities to use AMR. As more and more Part 15 devices and local area AVM systems are crowded into this narrow band segment, free of multilateration systems, it will cause the noise floor to rise above the utilities' ability to receive reliable readings. The obsolescence of AMR devices this will cause -- as utilities go back to knocking on doors to read meters -- will disserve the public interest and the public safety. The only viable long term solution is to allocate spectrum in another band to multilateration systems, giving them an appropriate transition period.